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**OFFICE OF PETITIONS**

In re Application of :  
Donald A. Serino :  
Application No. 10/788,783 :  
Filed: February 27, 2004 :  
Attorney Docket No. ALS-018 :  
DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on March 24, 2006, to revive the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on its merits. The Office apologizes for any inconvenience.

The application became abandoned on December 22, 2005, for failure to file a timely and proper response to the final Office action mailed on September 21, 2005, which set a three (3) month shortened statutory period for reply. On December 21, 2005, petitioner submitted an amendment in response to the final Office action. Upon reviewing the amendment, the examiner mailed an Advisory Action on January 26, 2006, stating that the amendment did not place the application in condition for allowance. On March 24, 2006, petitioner submitted a notice of appeal, a request for an extension of time for response within the third month, and the requisite fees. Unfortunately, the response was untimely because it was submitted beyond the six-month statutory period to reply to the final Office action.<sup>1</sup> Additionally, on March 24, 2006, petitioner filed the present petition to revive the application. On July 24, 2006, the Office mailed a Notice of Abandonment.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of a Notice of Appeal and paid the requisite fee. Accordingly, the petition is granted. **Petitioner must file an appeal brief within two months from the mailing date of this decision.**

This matter is being referred to Technology Center Art Unit 2833.

<sup>1</sup> Pursuant to 37 CFR 1.136, a request for an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, the \$1,020.00 extension of time fee will be credited to petitioner's Deposit Account No. 12-0080.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

*Christina Tartera Donnell*

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